

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

STEPHEN W. CALLOWAY

PLAINTIFF

VERSUS

NO. : 1:15CV175-NBB-SAA

**CHICKASAW COUNTY, MISSISSIPPI,
and BARRY GLADNEY, in his individual
capacity**

DEFENDANTS

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

This is an action to recover actual and punitive damages for unreasonable seizure of the person and for arbitrary governmental action in violation of the Fourth and Fourteenth Amendments to the United States Constitution, and for supplemental state law claims. The following facts support this action:

1.

The Plaintiff STEPHEN W. CALLOWAY is an adult resident citizen of 135 Robin Hood Lane, Houlka, Mississippi 38850.

2.

Defendant CHICKASAW COUNTY, MISSISSIPPI is a political subdivision of the state of Mississippi, which, at all relevant times, acted under color of state law. This Defendant may be served with process upon its Sheriff Jimmy Simmons, at 130 Lancaster, Houston, Mississippi 38851,

and through its Chancery Clerk, Wanda G. Sweeney, at 1 Pinson Square Road, Houston, Mississippi 38851.

Defendant, BARRY GLADNEY, is an adult resident citizen of Mississippi. This Defendant may be served with process by service upon him at his place of employment, at 130 Lancaster, Houston, Mississippi 38851. Defendant Gladney is a deputy sheriff for Chickasaw County, Mississippi, and at all relevant times acted under color of state law.

3.

This Court has civil rights jurisdiction under 28 U.S.C. § 1331, with civil rights jurisdiction under 28 U.S.C. § 1343 for a cause of action authorized by 42 U.S.C. § 1983, and by the Fourth and Fourteenth Amendments to the United States Constitution. This Court has supplemental jurisdiction on Plaintiff's state law claims.

4.

On June 14, 2014, Defendant Gladney arrested Plaintiff, alleging that he was under the influence of alcohol. While Plaintiff had been drinking, he denied that he was under the influence. Defendant took Plaintiff to the jail to administer a DUI test. Defendant Gladney then claimed the machine to conduct the test was not working, and asked Plaintiff if he would agree to take a blood test. Plaintiff agreed.

5.

Thereafter, Defendant Gladney took Plaintiff to the hospital to have the blood test. Defendant Gladney then claimed the hospital was too busy to conduct the blood test and told Plaintiff that he would forget about the DUI charge and would take Plaintiff home.

6.

Defendant Gladney then drove the police vehicle at a reckless, life-endangering rate of speed of approximately ninety (90) miles per hour on the Natchez Trace Parkway. At the same time, Defendant Gladney was using his cell phone and not watching the road. Defendant Gladney repeatedly disregarded Plaintiff's requests that he slow down. As Defendant Gladney talked on his cell phone, while driving ninety (90) miles per hour, without keeping a proper lookout, he crashed his vehicle violently into a tree that had fallen across the Natchez Trace.

7.

Through gross neglect, Defendant Chickasaw County, acting through its sheriff or other lawful authority, failed to direct him to follow the traffic speed laws. This demonstrates willful indifference to the safety of persons in law enforcement vehicles.

8.

Plaintiff suffered substantial injuries in the crash, which included broken and missing teeth, and injuries to various parts of his body.

9.

Medicare has paid most of Plaintiff's medical expenses, but Plaintiff remains liable for twenty percent (20%) of the expenses. Additionally, Plaintiff has permanent impairment in the form of teeth that were knocked out during the accident.

10.

Defendant Chickasaw County is grossly negligent in failing to train Defendant Gladney against driving his vehicle at reckless rates of speed when prisoners are in the vehicle. Defendant Gladney is individually liable for willful indifference to Plaintiff's liberty right to bodily integrity,

guaranteed him by the Fourteenth Amendment to the United States Constitution, and to be free from unreasonable seizure guaranteed him by the Fourth Amendment to the United States Constitution. Defendants Chickasaw County, Mississippi and Gladney are liable to Plaintiff for the state law claims of gross negligence and willful difference to Plaintiff's rights.

11.

Defendant Chickasaw County is required to indemnify Defendant Gladney for any damages awarded against him under the Mississippi Tort Claims Act.

12.

Plaintiff has suffered medical bills, mental anxiety and stress as a result of Defendants' actions.

13.

Plaintiff has filed the Notice of Claim, attached hereto as Exhibit "A," and the requisite waiting period has expired to file suit.

REQUEST FOR RELIEF

Plaintiff requests actual damages from Defendant Chickasaw County, and actual and punitive damages from Defendant Gladney in an amount to be determined by a jury, and for reasonable attorneys' fees, costs, and expenses.

DATED, this the 7th day of January, 2016.

Respectfully submitted,

WAIDE & ASSOCIATES, P.A.

BY: /s/ Ron L. Woodruff

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Ron L. Woodruff, attorney for Plaintiff, do hereby certify that I have this day electronically filed the above and foregoing with the Clerk of the Court, utilizing the ECF system, which sent notification of such filing to the following:

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DATED, this the 7th day of January, 2016.

/s/ Ron L. Woodruff
RON L. WOODRUFF